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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) No.375/2016 & IAs No.1408/2017 (u/O VI R-15A CPC),
1409/2017 (u/O XII R-6 CPC), 4757/2016 (u/O XXXIX R-1&2 CPC)
& 4758/2016 (u/O XI R-1(4) CPC) & CrI.M.A. No.1915/2017 (u/S
340 CrPC).

BRIDGESTONE CORPORATION

..... Plaintiff

Through: Mr. Pravin Anand, Mr. Raunaq
Kamath, Mr. Aamir Khan & Mr.
Ashutosh Upadhyaya, Advs.
SI Sunil Kumar, PS Tilak Marg, New
Delhi.
Mr. Sant Lal Sah, Superintendent,
LCS, Raxaul, Bihar.

versus

TOLINS TYRES PVT. LTD.

..... Defendant

Through: Mr. Sachin Dutta, Sr. Adv. with Mr.
Gautam Panjwani, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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17.03.2017

1. This order is in continuation of the yesterday's order. Mr. Sunil Kumar, Sub Inspector, Police Station Tilak Marg, New Delhi has produced Mr. Joy Konukkudy Thomas, Director and Mr. K.V. Tolin, Managing Director of the defendant and states that in accordance with yesterday's order, they were detained in police station Tilak Marg, New Delhi yesterday night.
2. The police personnel who have produced Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin are discharged for the time being.

3. Similarly, Mr. Sant Lal Shah, Superintendent from the Customs Department is also discharged from further appearance. However the record produced by him yesterday and which is stated to be the printout from the entries in the computer system of the Customs Department is taken on record.

4. The senior counsel for the defendant and Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin fairly state that though the said persons have given an explanation to him for their conduct owing where to they were ordered to be taken into custody yesterday but he is personally not satisfied therewith and thus not even placing the same before this Court and states that the said persons tender an unconditional apology to this Court for their conduct and are willing to abide by such terms as they may be put to.

5. The aforesaid Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin also undertake to this Court that they will not leave the territorial jurisdiction of this Court till especially permitted.

6. The senior counsel for the defendant seeks an opportunity to settle with the plaintiff.

7. List at 1415 hours today.

RAJIV SAHAI ENDLAW, J

MARCH 17, 2017

8. The counsels post lunch inform that the defendant and the aforesaid Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin being the Director and Managing Director of the defendant have in addition to suffering a decree for permanent injunction as claimed in prayer paragraph 32(a) and (b) of the

plaint have also agreed to pay to the plaintiff a sum of Rs.30 lacs by way of compensation / damages for the exports effected under the infringing trade mark.

9. I am of the view that the same will not absolve Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin from the offences and criminal contempt committed by them.

10. Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin offer to purge their folly by depositing a sum of Rs.5 lacs with the Delhi Legal Services Authority (DLSA).

11. Though I am of the view that the sum of Rs.5 lacs cannot purge the blatant falsehood practiced by the defendant and Mr. Joy Konukkudy Thomas, Director and Mr. K.V. Tolin, Managing Director and which in my *prima facie* opinion amounts to interference with the administration of justice and which actions of the said Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin are to be dealt with sternly to send a message to the society in general so that none other commits such acts of making false statement in the Court and attempting to obtain orders from the Court but on the undertaking of Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin to pay the aforesaid sum of Rs.30 lacs to the plaintiff and to deposit a sum of Rs.5 lacs with the DLSA on or before 30th April, 2017, it is deemed appropriate not to take any further action against Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin and to at this stage leave them with a caution / warning.

12. Statement of Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin has been separately recorded.

13. The undertakings offered by Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin are accepted and they are ordered to be bound therewith and have been informed of the consequences of breach thereof.

14. A decree is accordingly passed in favour of the plaintiff and against the defendant in terms of para no.32(a), (b) and (e) of the plaint dated 12th April, 2016 with damages being quantified, instead of Rs.1 crore as sought, at Rs.30 lacs. However if the aforesaid Mr. Joy Konukkudy Thomas and Mr. K.V. Tolin do not comply with their undertaking, the plaintiff will be at liberty to apply for revival of the suit for a decree for the amount as claimed and also for costs of the suit.

15. The receipt of deposit of Rs.5 lacs with DLSA be filed in the Registry by 7th May, 2017. If the same is not filed, Registry to list the suit for further action.

Decree sheet be drawn up.

RAJIV SAHAI ENDLAW, J

MARCH 17, 2017

‘gsr’..